

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS  
BENTON DIVISION

MARY E. SHEPARD and the ILLINOIS  
STATE RIFLE ASSOCIATION,

Plaintiffs,

V.

No. 3:11-cv-00405-WDS-PMF

LISA M. MADIGAN, solely in her official capacity as ATTORNEY GENERAL OF ILLINOIS, GOVERNOR PATRICK J. QUINN, solely in his official capacity as Governor of the State of Illinois, TYLER R. EDMONDS, solely in his official capacity as the State's Attorney of Union County, Illinois, and SHERIFF DAVID LIVESAY, solely in his official capacity as Sheriff of Union County,

Defendants.

Honorable Judge William D. Stiehl  
Magistrate Judge Philip M. Frazier

**AGREED MOTION TO EXTEND TIME FOR FILING  
A REQUEST FOR COSTS AND ATTORNEYS' FEES**

NOW COME the Plaintiffs, who submit this agreed motion to extend the time for filing a request for costs and attorneys' fees and to brief the issue of the award of costs and fees until 30 days after the issuance of the mandate resolving Plaintiffs' appeal to the Seventh Circuit.<sup>1</sup> In support, Plaintiffs state as follows:

1. On December 11, 2012, the Court of Appeals for the Seventh Circuit reversed this Court's previous Order Dismissing Case (Doc. No. 57) and remanded the case to this Court “for the entry of [a] declaration of unconstitutionality and [a] permanent injunction.” *Moore v.*

<sup>1</sup> This motion expressly excludes the costs previously awarded to Plaintiffs by the 7th Circuit (\$834.30). (Doc. No. 78-1). Defendants have indicated they are in the process of satisfying that award and will pay those costs to Plaintiffs.

*Madigan*, 702 F.3d 933, 942 (7th Cir. 2012). The Seventh Circuit stayed its mandate for 180 days (later extended by an additional 30 days) “to allow the Illinois legislature to craft a new gun law that will impose reasonable limitations, consistent with the public safety and the Second Amendment as interpreted in this opinion, on the carrying of guns in public.” *Id.*

2. The Seventh Circuit issued its mandate on July 9, 2013 (Doc. No. 72). Also on July 9, the Illinois legislature overrode Governor Quinn’s amendatory veto of H.B. 183, the Firearm Concealed Carry Act (“FCCA”), which, once it is operative, will provide a system for licensing the carry of handguns. As a result, the FCCA is now law.

3. Defendants moved to dismiss on the ground that the enactment of the FCCA renders this case moot (Doc. Nos. 73, 78). Plaintiffs filed responses to Defendants’ motions to dismiss (Doc. Nos. 74, 79). Defendant Livesay filed a memorandum in support of his motion to dismiss. (Doc. No. 88). The State Defendants filed a supplement to their motion to dismiss (Doc. No. 86).

4. Plaintiffs filed a motion for declaration of unconstitutionality and for preliminary and/or permanent injunction (Doc. No. 75) and a motion to expedite briefing on this motion (Doc. No. 76). Defendants filed responses (Doc. Nos. 77, 86) and Plaintiffs filed a supplemental brief (Doc. No. 87).

5. On July 26, 2013, this Court entered a Memorandum & Opinion denying Plaintiffs’ request for declaratory and injunctive relief and dismissing plaintiffs’ complaint for lack of subject matter jurisdiction, finding that this action and the Seventh Circuit’s mandate have been rendered moot by the passage of the FCCA (Doc. No. 89).

6. The Court's Order Dismissing Case (Doc. No. 89) directed the parties to brief the issue of the award of costs and fees within 14 days of the date of the Order.

7. On July 29, 2013, Plaintiffs filed a Notice of Appeal (Doc. No. 91) as to the Court's Order (Doc. No. 89). Plaintiffs contend on appeal that this case is not moot and that they remain entitled to the declaratory and injunctive relief ordered by the Seventh Circuit.

8. The Seventh Circuit has set the appeal on a highly expedited schedule. In particular, the Court of Appeals has treated Plaintiffs' emergency motion for an injunction pending appeal, filed on July 30, as their opening brief, has ordered Defendants to respond by August 9 and Plaintiffs to reply by August 14, and has indicated that it will set the matter for oral argument. *See Shepard v. Madigan*, No. 13-2661 (August 1, 2013), ECF No. 8.

9. Plaintiffs' counsel has already devoted considerable time to this appeal and will continue to do so during the period this Court has established for briefing the issue of fees and costs. Further, Plaintiffs' counsel must devote a considerable amount of time, and must confer with each other at length, to prepare a motion for attorneys' fees under 42 U.S.C. § 1988. And the amount of fees claimed could be affected by the appeal now pending in the Seventh Circuit.

10. In order to provide time to properly litigate both the appeal and the issue of fees and costs, Plaintiffs thus respectfully request an extension of the time to file their motion for attorneys' fees and to brief the issue of the award of costs and fees. In particular, Plaintiffs' request extending their deadline to do so to 30 days from the date the Seventh Circuit issues its mandate resolving their appeal to that court.

11. The State Defendants (by counsel Terry Corrigan) and Defendant Livesay (by counsel Knute R. Bleyer) have consented to this request to extend the date for filing a request

for attorneys' fees and briefing the issue of the award of costs and fees until 30 days following the issuance of the Seventh Circuit mandate resolving Plaintiffs' appeal to the Seventh Circuit.

NOW THEREFORE, Plaintiffs respectfully request that the Court extend the time for filing a request for costs and attorneys' fees and for briefing the issue of the award of costs and attorneys' fees until 30 days after the issuance of the mandate resolving Plaintiffs' appeal to the Seventh Circuit.

Dated: August 5, 2013

Respectfully Submitted,

**MARY E. SHEPARD** and  
**THE ILLINOIS STATE RIFLE**  
**ASSOCIATION,**  
Plaintiffs

By: /s/ William N. Howard  
One of their attorneys

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**CERTIFICATE OF SERVICE**

The undersigned attorney states that he caused a true and correct copy of Plaintiffs' **Agreed Motion to Extend Time for Filing Request for Costs and Attorneys' Fees**, to be served upon the parties of record, as shown below, via the Court's CM/ECF system on the **5th** day of **August, 2013**.

By: /s/ William N. Howard

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